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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,785

07/10/2003

Lawrence Wasicek

1001.1693101

2009

28075 7590 07/09/2010  
CROMPTON, SEAGER & TUFTE, LLC  
1221 NICOLLET AVENUE  
SUITE 800  
MINNEAPOLIS, MN 55403-2420

EXAMINER

NGUYEN, VI X

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

07/09/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/616,785	<b>Applicant(s)</b> WASICEK, LAWRENCE	
	<b>Examiner</b> VICTOR X. NGUYEN	<b>Art Unit</b> 3731	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-8, 10-15, 19-21, 24-29, 33, 34, 38-40 and 44-46.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Gary Jackson/  
 Supervisory Patent Examiner, TC 3700  
 July 6, 2010

/VN/  
 Examiner  
 Art Unit: 3731

Continuation of 11. Applicant's arguments have not been found persuasive. Applicants state that Daniel does not appear to disclose a connector which connects a proximal section and a distal section of an elongate shaft and a filter coupled to the shaft. Examiner disagrees. In fact, as seen in fig. 4 of Daniel discloses a connector 132 connecting the proximal section 114 and the distal section 116 of the elongate shaft 112, wherein the connector 132 is fixedly secured to both the proximal section and the distal section (fig. 4), securing the distal end of the proximal section with the proximal end of the distal section. Daniel, fig. 4 is silent regarding a filter coupled to the shaft. However, Daniel teaches a filter 21 coupled to the shaft (fig. 9, element 112). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Daniel's fig. 4 with a filter coupled to the shaft as taught by Daniel in other embodiment (figure. 9) in order to filter plaque, thrombus which releases into the blood stream during invasive procedures that performed in blood vessels. The phrase "a filter coupled to the shaft" in the claim is broad enough to mean that "something that joints, or links, or engages two things together" as evidence by "Merriam-Webster on line dictionary. Thus, the filter 21, fig. 9 of Daniel appears to be coupled or engaged to the shaft 112. There is nothing claimed which prohibits this interpretation of the prior art to be used as the filter 21, fig. 9 of Daniel appears to be coupled or engaged to the shaft 112. The same arguments will apply to Daniel in view of Steven (as the final office action, pages 2-7 as recited in claims 10, 24, 39-40, 44 mailed 4/27/2010). Accordingly, the above noted references are still considered to read on the claimed limitations of the claimed noted.